

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on February 13, 2001 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Dennis Himmelberger (R)
Rep. Jim Keane (D)
Rep. Rick Laible (R)
Rep. Bob Lawson (R)
Rep. John Musgrove (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Donald Steinbeisser (R)
Rep. Brett Tramelli (D)
Rep. James Whitaker (R)

Members Excused: Rep. Carol C. Juneau (D)

Members Absent: None.

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB479, HB517, HB515, HB514,
2/6/2001
Executive Action: HB489, HB490, HB507, HB515,
HB394

HEARING ON HB515

Sponsor: REP. LARRY LEHMAN, HD 87, Power

Proponents: Robert Drake, Helena & Lakeside Fire Departments
Michael Connor, MPERA
Tony Novak, Lakeside Fire Department
Jim Dusenberry, Montana Fire Districts
Dean Mack, East Valley Fire Company

Opponents: None

Opening Statement by Sponsor:

REP. LARRY LEHMAN, HD 87, Power, said HB515 allows retired volunteer firemen to return to active service during periods of emergency. He told the committee that current regulations do not allow retired volunteer firemen to be re-activated during emergencies. This past fire season, the retired volunteer firemen could not help. He said if they were an active member they would jeopardize their PERS benefits. He noted the 2000 fire season was the worst since 1910. The retired firemen were in a dilemma, not only as to whether to risk their well-being, but to whether they should risk their retirement. He said the fire department's only option was not to use them. However, they would have been good logistical support. He said the Forest Service has the ability to recall retirees. He added, the ability to recall these fire fighters would provide an experienced and well-trained resource for support manpower.

Proponents' Testimony:

Mr. Drake said during the 2000 fire season, he called PERS and asked if they could have the volunteer firemen back. He said, "I knew the answer, but I just had to ask." He said they were very understaffed this summer during the wildfires. He said his father was a retired fireman who would have liked to help. He also noted there were many support-type activities the retired firemen could help with.

Mr. Connor said "this is a make-sense bill." He noted there are 850 volunteer firemen retirees. He said after 20 years of service they receive \$100 per month.

Mr. Novak told the committee, "The people we are asking to be able to use are the ones who trained us."

Mr. Dusenberry said he represented 10,000 volunteer firemen across Montana. He said Montana needs to be able to draw on the

experience of the 850 retired firefighters, and "need those who know."

Mr. Mack said the ability and the knowledge of retired firefighters should not be lost due to a technicality in the law. He said "quick response is very valuable" and "if we have people trained, it is more efficient." Retired people can go for water or other resources and operate equipment. He said safety is most important and when there is one injured fireman, it requires two firemen to assist. Seasoned firefighters are aware of the dangers, he said, and would be an invaluable resource.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. LAIBLE asked **Mr. Connor** how the 20 year retirement system worked. **Mr. Connor** said it is a non-contributing retirement system. He said volunteer fire departments report on the active members each year and require 30 hours of training. After they have been with the department 20 years, they receive \$100 per month. **REP. LAIBLE** asked if the bill would affect the retirement. **Mr. Connor** said no, it would be temporary in nature.

REP. GALVIN-HALCRO asked if the retired firemen would be restricted in any way, or have any physical limits on them. **REP. LEHMAN** replied, "I know mine would be." He added it would be up to the fire chief to designate appropriate tasks. **REP. GALVIN-HALCRO** asked if he would be willing to amend into the bill that it was the responsibility of the fire chief to designate the tasks. **REP. LEHMAN** replied, "Obviously, yes I would."

Closing by Sponsor:

REP. LEHMAN asked the committee to consider the bill and its amendments and to pass HB515 out of the committee.

HEARING ON HB479

Sponsor: **REP. STEVE GALLUS, HD35, Butte**

Proponents: **David Ewer, Board of Investments**

Opponents: **None**

Opening Statement by Sponsor:

REP. STEVE GALLUS, HD35, Butte, told the committee the bill authorizes special improvement district bonds and rural special improvement district bonds to bear interest at a variable rate.

Proponents' Testimony:

Mr. Ewer presented written testimony to the committee.

EXHIBIT (buh36a01)

EXHIBIT (buh36a02)

Opponents' Testimony: None

Informational Witnesses: **Joe Mazurek, D.A. Davidson**, said the bill expands the capability of the Board of Investments, but does it at the expense of the private sector. He said it is good to enhance the marketability of the bonds, but bad to restrict it to the public sector. He added perhaps this should be available in the private sector as well.

Questions from Committee Members and Responses:

REP. PRICE asked **Mr. Mazurek** for an example of private sector use. **Mr. Mazurek** said it is no different than negotiating a variable rate and bidding. He said D.A. Davidson does a lot of public financing. He said he would make the same service available in the private as in the public sector. **REP. PRICE** asked for an example. **Mr. Mazurek** said there is the ability to do a sale in SIDs, but it is limited to the state and federal government. He noted this bill would prohibit D.A. Davidson from competing in this area.

REP. BROWN asked **Mr. Ewer** if he had a problem competing with private companies. **Mr. Ewer** said generally government is required to use competitive bidding.

Closing by Sponsor:

REP. PRICE thanked the committee for the hearing and asked them to pass HB479.

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HEARING ON HB517

Sponsor: **REP. JEFF MANGAN, HD45, Great Falls**

Proponents: Patti Keebler, Montana AFL-CIO

Opponents: None

Opening Statement by Sponsor:

REP. JEFF MANGAN, HD45, Great Falls, said this is a revision of a 1981 statute concerning capital venture firms. The bill adds the terms "technical" and "technical infrastructure" to the types of firms the Small Business Investment Companies Act is intended to attract.

Proponents' Testimony:

Ms. Keebler announced she represented 50,000 Montana families and said the bill was "working family friendly." She said there have been rapid changes in types of jobs, with more jobs being in offices than manufacturing today.

Opponents' Testimony: None

Questions from Committee Members and Responses: None

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Closing by Sponsor:

REP. MANGAN said "we need to see what we can do to attract new business and build current businesses." He noted this bill was one way to promote a business-friendly climate. **EXHIBIT (buh36a03)**

HEARING ON HB514

Sponsor: REP. LARRY JENT, HD29, Bozeman

Proponents: John Morrison, State Auditor
Betty Babcock, AARP and self
Ed Eaton, AARP
Pam Busey, Assistant Attorney General

Opponents: Geoff Feiss, Montana Telecommunications Assn.
Kathy Brightwell, AY & T
Ross Canon, Direct Marketing Assn.
Gregg Van Horssen, State Farm

Jacqueline Lenmark, AIA
John Metropoulos, NAI
Mike Strand, MT Independent Communications Systems
Russ Cravens, Quest Communications
John Cadby, Montana Bankers Assn.
Al Pontrelli, MT Assn. of Insurance and
Financial Advisors

Opening Statement by Sponsor:

REP. LARRY JENT, HD29, BOZEMAN, said his bill is about the right of a citizen to be "left alone" by establishing a no-call list for telephone solicitors to follow. He said under this bill the Department of Commerce would maintain a toll-free number and internet site which would allow telephone customers to add their name to the no-call list. He said the bill is modeled after Tennessee legislation. He noted that in Tennessee after the list was begun, over 300,000 telephone customers had signed up. They had only anticipated 200,000 names, and now have over 560,000 names on the no-call list, he said. He noted that this amount represents 30-40% of the telephone customers, and that over one-half had enrolled over the internet. Tele-marketers have to buy the list, and "they must pay the fee or they cannot do business in Montana," he explained. An exception to calling individuals who are on the no-call list is when there is a pre-existing relationship between the caller and the individual. He ended by saying this law is working well in Tennessee and it can work well in Montana, too.

Proponents' Testimony:

Mr. Morrison presented written testimony concerning telephone fraud cases his office had investigated. **EXHIBIT (buh36a04)** He said the customers who put their names on the do not call list will receive fewer unwanted calls, and if they do receive one, will know that company has already broken the law by calling them. He explained the bill does not stop telemarketing in Montana, it merely stops those who don't want to receive call from receiving them. "This bill protects people where they feel safest...in their home," he said.

Ms. Babcock noted she had testified as a victim last session for a similar telemarketing bill, SB27. She said telemarketing abuse and fraud can be devastating to families, and especially to older citizens.

Mr. Eaton said the bill will help prevent consumer fraud.

Ms. Busey said, as a former prosecutor, her office received many complaints about fraud and telemarketing. She said this bill places the responsibility with the telemarketer, which is where it should be.

Opponents' Testimony:

Mr. Feiss said no one likes unscrupulous telemarketers. "They are bad for business and bad for our customers," he said. He testified to the committee that he had to oppose the bill in defense of his customers. He said the bill puts the telephone companies in the position of law enforcement agencies. He also noted it would be difficult for Montana to enforce on out-of-state telemarketers.

Ms. Brightwell said federal legislation and regulation had already been established to protect consumers from telemarketing fraud. "This bill is unnecessary and may be detrimental," she said. She explained that "do not call" requests are honored for 10 years at AT&T. She also told the committee the Direct Marketing Assn. maintained a broad "do not call" list which consumers can be placed on. If the bill is limited to in-state calls, Montana businesses will be impacted, she said. She explained the abusing telemarketers already ignore the rules. She asked the committee to refrain from legislation until the federal legislation imposes the burden on them because this will result in higher costs.

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Mr. Canon said he agreed with **Ms. Brightwell**. He said with proper education, consumers can be notified the list is available.

Mr. Van Horssen concurred with the previous opponents. He did note the bill had costs associated with it, and that the committee should consider an educational system to tell consumers their rights. He projected the bill would raise the price of products marketed by telemarketers. He told the committee **Ms. Lenmark** and **Mr. Metropolous** wished to be recorded as opposing the bill.

Mr. Staples said he thought the national lists work. He said there should be additional publicity from the State Auditor and Insurance Commissioner and groups such as AARP. He asked the committee if they knew why long distance phone calls had become so affordable and told them it was because of the telemarketing of that product. He said call centers offer jobs for many Montanans. He asked the committee not to impose the duplicity of

the regulations in this bill. He said consumers can be protected without this bill, they just need to be told how.

Mr. Strand and **Mr. Cravens** said they would like to cooperate but there were statutory requirements preventing them, and asked if an amendment could be considered.

Mr. Cadby said he had worked last session with AARP on the bill and this solution was to put a no-call list as a section in the act. **EXHIBIT (buh36a05)** "This bill sweeps in all," he said.

Mr. Pontrelli called the bill broad and said it includes all of his people. He noted it would be difficult to meet the requirements of the bill. He noted he represented 450 agents and it would add to their costs.

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Informational Witnesses:

Annie Bartos, Consumer Affairs, said her agency would be the one to oversee this law. She presented the committee some prepared amendments. **EXHIBIT (buh36a06)**

Questions from Committee Members and Responses:

REP. LAIBLE asked if businesses outside the state were covered. **Ms. Bartos** replied businesses outside the state were covered and the legitimate businesses would cooperate and the bad ones will move on.

REP. GALLIK asked **REP. JENT** if the list maintained by the Direct Marketing Assn. in New Jersey was voluntary or mandatory. **REP. JENT** replied this is an independent group which maintains a list and the consumer has to contact them. He said it is a private organization and the government has no control over them.

REP. HIMMELBERGER asked if no-call lists were available now. **Mr. Brightwell** said they were available as a result of federal rules and legislation. He said each company is required to maintain a do not call list, in addition to the Direct Marketing Assn. list. He said, "We don't need to add another to what is already available."

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REP. HIMMELBERGER asked **REP. JENT** why he did not think this bill would cause a duplication. **REP. JENT** replied it was definitely

not, because Montana has no telemarketing list. He said now consumers get on do not call lists just for one particular company. This bill will get them on the do not call list for all companies.

Chairman McKenney asked **REP. JENT** why the bill exempted non-profit organizations as they seem to be the ones who make the most calls. **REP. JENT** said they are not exempted in this bill, but he would leave it up to the committee's discretion.

REP. BITNEY asked **REP. JENT** if a real estate broker making calls in the evening would be in violation of this law. **REP. JENT** said it would not be a violation if there was a previous relationship with the individual, or there were 3 calls or less in a night.

REP. BITNEY asked what if he called his neighbor because he had a tractor for sale. **REP. JENT** said that would be a previous relationship.

Closing by Sponsor:

REP. JENT said there has been compelling testimony for both sides. He reminded the committee that citizens expect and deserve privacy in their homes.

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EXECUTIVE ACTION ON HB507

Motion/Vote: **REP. ROME** moved that **HB507 BE TABLED**. Motion carried 17-2 with Bookout-Reinicke and Musgrove voting no.

EXECUTIVE ACTION ON HB489

Motion/Vote: **REP. PRICE** moved that **HB489 DO PASS**. Motion carried unanimously.

EXECUTIVE ACTION ON HB490

Motion: REP. PRICE moved that HB490 DO PASS.

Discussion:

REP. PRICE said there are nine organizations and eight counties which qualify for this leveraging tool. He said it will create jobs in the state, and leverage five million dollars from the Coal Trust into twenty million dollars for the state.

REP. MUSGROVE said he will support this because it is a good bill.

REP. GALVIN-HALCRO asked how the five million comes from the Coal Trust.

REP. PRICE said the interest is earned from the Coal Trust and is put in a special account. He said it is to be used for local government entities to add jobs.

REP. GALVIN-HALCRO asked if it is to be used for job retention.

REP. PRICE said it is to be used for both.

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REP. LAIBLE said he supported the bill because he liked the fact seasoned loans were being eliminated and this freed up money for new loans.

Vote: Motion HB490 carried with Brown and Juneau voting no.

EXECUTIVE ACTION ON HB515

Motion: REP. LAWSON moved that HB515 DO PASS.

Discussion:

Motion: REP. GALVIN-HALCRO moved that HB515 BE AMENDED.

Discussion:

Motion/Vote: REP. GALVIN-HALCRO moved that HB490 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB394

Motion: REP. GALLIK moved that HB394 BE TAKEN OFF THE TABLE.

Discussion:

REP. MATTHEWS said, "REP. KAUFMAN asked me why I was against this bill." He said, "I told her this bill was an undue hardship on counties with 14,000 or less population." He told her he would vote for the bill in committee if he could get an amendment which would exclude counties with less than 14,000 population.

REP. PRICE said he had been asked to carry an amendment which would except the Board of Investments, but he would not vote for the bill on the Floor.

CHAIRMAN MCKENNEY said he had not changed his mind, and he did not know why population would change anything. He said if a bill would be good for one it should be good for all.

REP. LAIBLE said he still opposed the bill. He said "we can't be exempting people to get their vote."

Vote: Motion TO TAKE HB394 OFF THE TABLE carried 10-9 with Bitney, Bookout-Reinicke, Brown, Himmelberger, Laible, McKenney, Rome, Steinbeisser, and Whitaker voting no.

ADJOURNMENT

Adjournment: 10:45 A.M.

REP. JOE MCKENNEY, Chairman

JANE NOFSINGER, Secretary

JM/JN

EXHIBIT (buh36aad)